COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4589-01
Bill No.: HB 1898
Subject: Pharmacy; Revenue Department; Social Services Department; Taxation and Revenue - General; Taxation and Revenue - Sales and Use
Type: Original
Date: February 26, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
All funds	($3,258,228)	($3,844,709)	($4,536,756)
General	($357,898)	($95,103)	($97,507)
Conservation*	(Unknown)	(Unknown)	(Unknown)
Highway	($720,456)	($864,547)	($1,037,456)
Pharmacy Tax Fund**	$0	$0	$0
Total Estimated Net Effect on All State Funds	**($4,336,582 to Unknown)**	**($4,804,359 to Unknown)**	**($5,671,719 to Unknown)**

*Expected to exceed $100,000 annually.
**Revenues and expenditures of up to an estimated $177,600,000 would net to $0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Federal	($34,741)	($31,337)	($32,123)
Total Estimated Net Effect on All Federal Funds	**($34,741)**	**($31,337)**	**($32,123)**

ESTIMATED NET EFFECT ON LOCAL FUNDS

FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance**, the **State Treasurer's Office**, and the **Department of Health and Senior Services** assume this proposal would not fiscally impact their agencies.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state this proposal imposes an additional tax on licensed retail pharmacies, effective July 1, 2002. The Department of Social Services is responsible for developing the formula based on gross retain prescription receipts, which is not to exceed 6%. Pharmacies will try to recoup this expense by passing it on to the consumer. When pharmacy contracts expire and are renegotiated, the pharmacies will request additional monies to recoup the cost of this additional tax. The contractors will merely pass the cost along through increased premiums. HCP estimates a pharmacy cost of $53 million for CY2002. If the effects were immediate, the potential for additional cost could be 6% of $53 million for ½ of CY2002 or $1,494,600. If the effects of the bill are not felt until CY2003, the associated cost, trended at 18% for inflation, could result in additional cost of $3,527,256.

Oversight assumes 6 % tax, a pharmacy inflation rate of 18% and that cost would be immediate. Therefore, costs to all funds would be $3,258,228 in FY 03; $3,844,709 in FY 04; and $4,536,756 in FY 05.

Officials from the **Missouri Department of Conservation (MDC)** assume this proposal would have fiscal impact on MDC funds because it imposes up to a 6% tax on retail pharmacy prescription sales. MDC estimates the impact to be $100,000 annually or more.

Officials from the Department of **Public Safety - Missouri State Highway Patrol** defer their fiscal note response to the Department of Transportation.

Officials from the **Department of Transportation (DHT)** state this legislation places a tax on the gross retail prescription receipts of pharmacies. The tax cannot exceed 6% of gross retail prescription receipts. This legislation will have no fiscal impact on DHT. Nothing in the legislation prevents the pharmacies from attempting to raising the cost of prescriptions to cover the tax. If prescription costs are increased due to the tax, then this legislation will have a fiscal

ASSUMPTION (continued)

impact on the Highway & Patrol Medical Plan.

Assuming that pharmacies do pass this tax on to the consumer by increasing the cost of prescriptions, there would be a fiscal impact to the Medical Plan. DHT states in CY 2001 the Medical Plan paid out $9,405,950 for prescription costs and based on projections from the Medical Plan's Actuary, we are to assume prescription drug benefit costs will increase at a 20% annualized rate. If pharmacies pass the tax on to the consumer and the tax was 6% of gross retail receipts then the Medical Plan would realize an additional 6.38% increase in prescription costs annually. Because the legislation does not give the exact tax percentage we assumed 6%, which is the maximum amount that is allowed. We also assumed that the pharmacies would gross up prescription charges to cover the 6% tax on the 6% increase to their prescriptions which is intended to cover their 6% tax on gross retail receipts.

To calculate the gross up DHT subtracted the tax rate of 6% from 100% which gave us 94%. We then divided the 6% tax by 94% which equals the gross up amount and which equated to an approximate 6.38% (6%/(1 - 6%)) increase. The total fiscal impact to the Medical Plan would be approximately $720,456 ((($9,405,950 x (100 + 20%)) x 6%)/(100% - 6%)) in CY 2002.

Currently 77% of the Medical Plan's total participation is due to DHT participants and 23% is due to MHP participants. Therefore, approximately $554,751 ($720,456 x 77%) of the total fiscal impact in CY 2002 would be due to DHT participants and $165,705 ($720,456 x 23%) would be due to MHP participants.

Historically, the department and the plan members have shared in any premium increases necessary because of increases in benefits. The costs may be shared in the long run (meaning shared between three categories: absorbed by the plan, state appropriated funds, and/or costs to individuals covered under the plan). However, the DHT (commission) must make a decision on what portion they will provide. Until the commission makes a decision, DHT can only provide the cost to the medical plan.

Officials from the **Department of Social Services (DOS)** assume that they would be the primary agency responsible for the administration of the program. The responsibilities of the DOS would include (1) promulgating the rules on the formula for the tax, (2) notifying the pharmacies of the amount of tax due and amount of tax paid on a quarterly basis, (3) facilitating an offset, if requested by the provider, (4) notifying pharmacies of taxes due greater than 90 days, and (5) filing state plan amendment and make system changes to increase dispensing fees.

The Division of Medical Services (DMS) assumes the implementation and maintenance of this program would require one additional FTE. A Management Analysis Specialist II would be needed at an annual cost of $62,676 for salary, fringe benefits and equipment and expense.

ASSUMPTION (continued)

The DMS estimates retail pharmacy sales for FY 03 at $2.96 billion. This is based on a report produced by Novartis on calendar year 2000 and inflated 3% annually. For example, if the tax rate would be 1.86%, the amount generated on an annual basis would be $55,056,000.

DOS stated to Oversight they have requested a $90.2 million ($35 million GR) decision item for pharmacy inflation for the fiscal year 03 budget request. The Office of the Governor recommends that $31.5 million of this decision item be funded with Pharmacy Tax funds, thus reducing the GR for Pharmacy Inflation decision item to $3.5 million. DOS has calculated that a tax of 1.86% of total gross revenue from pharmacy sales would be needed to generate this amount of tax. The tax proposal assumes that dispensing fee paid to pharmacy providers would increase from $4.09 (established 1991) to $8.04, which although is a separate decision item in the DOS budget, is part of the overall tax proposal.

Oversight assumes based on DOS's source of retail pharmacy sales, the Pharmacy Tax Fund could generate $0 to $177,600,000 ($2.96 billion x 6%) annually.

Officials from the **Department of Revenue (DOR)** state the proposed legislation would require a new system. The complexity of the system includes, but is not limited to the due date of the 15th of the month, sharing duties and responsibilities with a separate agency (DOS), DOR providing information to DOS to collect the money, which is done separate from reporting, and then payable to DOR. It is estimated that the 6,228 hours of programming would be required to develop a new system to handle the functions mentioned at a cost of $207,766. The State Data Center charges to implement the proposed legislation would be $40,530.

The Division of Taxation and Collection recommends that DOR not be included in this legislation other than as a cashiering function. If DOR only cashiers the pharmacy tax, there would be no administrative impact on the Division of Taxation and Collection. However, if the language remains as drafted DOR would need two Tax Processing Tech I's to process the monthly reports and provide Social Services with the quarterly figures to collect.

Officials from the **Department of Mental Health (DMH)** state that the DMH , Division of Comprehensive Psychiatric Services provides General Revenue funds to purchase drugs for consumers. Assuming that pharmacies would not pass this cost of doing business on to the customer, DMH assumes no fiscal impact.

FISCAL IMPACT - State Government	FY 2003	FY 2004	FY 2005

ALL FUNDS

FISCAL IMPACT - State Government	FY 2003	FY 2004	FY 2005
Costs - All funds			
Increased state contributions	($3,258,228)	($3,844,709)	($4,536,756)
ESTIMATED NET EFFECT ON ALL FUNDS	**($3,258,228)**	**($3,844,709)**	**($4,536,756)**
GENERAL REVENUE			
Costs - Department of Social Services - Division of Medical Services			
Personal Services (1 FTE)	($22,195)	($22,750)	($23,319)
Fringe Benefits	($7,992)	($8,213)	($8,418)
Expense and Equipment	($4,554)	($374)	($386)
Total Costs - Department of Social Services - Division of Medical Services	($34,741)	($31,337)	($32,123)
Costs - Department of Revenue			
Personal Services (2 FTE)	($42,384)	($43,444)	($44,530)
Fringe Benefits	($15,262)	($15,644)	($16,035)
Expense and Equipment	($17,215)	($4,678)	($4,819)
Programming	($248,296)	$0	$0
Total Costs - Department of Revenue	($323,157)	($63,766)	($65,384)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**($357,898)**	**($95,103)**	**($97,507)**
CONSERVATION FUND			
Costs - Missouri Department of Conservation			
Costs–Increased state contribution	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON CONSERVATION FUND*	**(UNKNOWN)**	**(UNKNOWN)**	**(UNKNOWN)**

***Expected to exceed $100,000 annually.**

HIGHWAY FUND

FISCAL IMPACT - State Government	FY 2003	FY 2004	FY 2005
Costs - Department of Transportation			
Increased state contribution	($554,751)	($665,701)	($798,841)
Costs - Department of Public Safety - Missouri State Highway Patrol			
Increased State Contribution	($165,705)	($198,846)	($238,615)
ESTIMATED NET EFFECT TO HIGHWAY FUND	**($720,456)**	**($864,547)**	**($1,037,456)**
PHARMACY TAX FUND			
Income - Department of Revenue			
Pharmacy tax	Unknown	Unknown	Unknown
Costs - Department of Social Services			
Medicaid pharmacy costs	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON PHARMACY TAX FUND*	**$0**	**$0**	**$0**

***Revenues and expenditures of up to $177,600,000 would net to $0.**

FEDERAL FUND			
Costs - Department of Social Services - Division of Medical Services			
Personal Services (1 FTE)	($22,195)	($22,750)	($23,319)
Fringe Benefits	($7,992)	($8,213)	($8,418)
Expense and Equipment	($4,554)	($374)	$386
Total Costs - Department of Social Services - Division of Medical Services	($34,741)	($31,337)	($32,123)
ESTIMATED NET EFFECT ON FEDERAL FUND	**($34,741)**	**($31,337)**	**($32,123)**

FISCAL IMPACT - Local Government	FY 2003	FY 2004	FY 2005
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small business that are pharmacies would be required to pay a tax on retail sales.

DESCRIPTION

This proposal imposes a tax upon licensed retail pharmacies in Missouri for the privilege of providing outpatient prescription drugs. The tax rate will be determined in accordance with rules by the Department of Revenue based on monthly gross retail prescription receipts of pharmacies. The tax rate cannot exceed 6%. The Department of Social Services will notify each individual pharmacy of the amount of quarterly tax due.

The proposal provides for a credit against the tax on pharmacies for certain taxes paid to the federal government and provides for offsets against any Medicaid payment due the pharmacy from the state.

All revenues from the tax will be deposited in the Pharmacy Tax Fund, created in the bill. Moneys in the fund will be used to provide payments for services related to the Medicaid pharmacy program.

The provisions of the bill will expire on June 30, 2005.

The bill contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Transportation
Department of Social Services
Missouri Consolidated Health Care Plan
Department of Insurance

CM:LR:OD (12/01)

Missouri Department of Conservation
Department of Public Safety -
  Missouri State Highway Patrol
State Treasurer's Office
Department of Revenue
Department of Health
Department of Mental Health

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